

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

Bky. No.: 04-32867
Chapter 7 Case

Jesse John Jutz,
Debtor.

**DEBTOR'S MEMORANDUM OF LAW IN RESPONSE TO MOTION OF FIRST
FEDERAL BANK FOR RELIEF FROM THE AUTOMATIC STAY**

Debtor Jesse Jutz, through his undersigned counsel, makes the following response to First Federal Bank's (FFB's) motion for relief from the automatic stay. Because this response is based on matters previously verified of record in this case, this response is not verified. For the reasons stated herein, Debtor requests a minor modification of the proposed order but otherwise does not contest the motion.

The security agreement, Exhibit B to the FFB motion, was made between FFB and a corporate entity, Jutz Farms, Inc.¹ The motion does not allege or attach a security agreement between Debtor personally and FFB. Therefore, assuming an order is necessary at all, the order should specify that relief from the stay is granted only as to the property of Jutz Farms, Inc.

Therefore, the Court should enter the modified order appended to this memorandum. In the event that FFB files a reply agreeing to this modified order, the Court may choose to treat the matter as a default matter.

Respectfully submitted,

/e/ Kurt M. Anderson

Kurt M. Anderson # 2148

Attorney for Debtor

P.O. Box 2434

Minneapolis, Minnesota 55402-0434

(612) 333-3185

¹ Debtor owns a 21 percent interest in Jutz Farms, Inc. Schedule B, item 12.

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DISTRICT OF MINNESOTA

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Bky. No.: 04-32867
Chapter 7 Case

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ORDER GRANTING MOTION FOR RELIEF FROM STAY

The above-entitled matter came before the Court for hearing on October 25, 2004, at the motion of First Federal Bank, fsb ("First Federal") seeking relief from the automatic stay of 11 U.S.C. §§ 362 of the Bankruptcy Code. Appearances were noted in the Court's record. Based upon the proceedings had on said date, the statements of counsel, and all of the files and records herein, the Court now finds that cause exists entitling First Federal to the relief requested.

NOW, THEREFORE, IT IS HEREBY ORDERED that the automatic stay of 11 U.S.C. § 362 of the Bankruptcy Code is immediately modified to allow First Federal Bank, fsb, and/or its assignees and/or successors in interest, to foreclose its lien on any of the following types of property belonging to Jutz Farms, Inc., and pursue any available remedies under state law:

all debts, inventory, equipment, farm products, accounts, instruments, documents, chattel paper and other rights to payment, general intangibles, government payments and programs, and all crops growing or to be grown in the 2000 crop year and each year thereafter (the "Collateral").

Notwithstanding the Federal Rule of Bankruptcy Procedure 4001(a)(3) this order is effective immediately.

So ordered this ____ day of _____, 200__.

Hon. Gregory F. Kishel
Chief United States Bankruptcy Judge

Declaration of Service via Facsimile

Kurt M. Anderson respectfully declares to that on October 20, 2004, he served the following items:

DEBTOR'S MEMORANDUM OF LAW IN RESPONSE TO MOTION OF FIRST FEDERAL BANK FOR RELIEF FROM THE AUTOMATIC STAY (with attached proposed modified order)

This proof of service

Via facsimile on the following individuals or entities:

Andrew P. Moratzka	612-305-1414
Paul Bucher	507-288-9342
US Trustee	612-664-5516

VERIFICATION

I hereby declare under penalty of perjury that I have read the foregoing declaration; and that the facts stated therein are true and correct.

Executed on: October 20, 2004 /e/ Kurt M. Anderson